

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

MARSHALL LEWIS TUTOR, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

LINCOLN NATIONAL CORP. and LINCOLN
NATIONAL LIFE INSURANCE COMPANY,
collectively d/b/a LINCOLN FINANCIAL GROUP,

Defendants.

No.: 17-cv-4150-GJP

CLASS ACTION

ROBERT L. TRINCHERO; NANCY S.
KESSELHAUT, ARTHUR M. KESSELHAUT,
AND WARREN M. STANTON, AS TRUSTEE OF
THE KESSELHAUT TRUST AGREEMENT
DATED AUGUST 24, 1989; WILLIAM LIN
PATTERSON; ADVANCE TRUST & LIFE
ESCROW SERVICES, LTA, AS NOMINEE OF
LIFE PARTNERS POSITION HOLDER TRUST;
AND BARRY MUKAMAL, AS TRUSTEE OF
THE MUTUAL BENEFITS KEEP POLICY
TRUST,

Plaintiffs,

v.

LINCOLN NATIONAL CORPORATION AND
THE LINCOLN NATIONAL LIFE INSURANCE
COMPANY,

Defendants.

No. 18-cv-0765-GJP

CLASS ACTION

**PLAINTIFFS' MOTION FOR CONSOLIDATION OF RELATED ACTIONS
AND APPOINTMENT OF PLAINTIFFS' INTERIM CLASS COUNSEL**

Pursuant to Rules 23(g)(3) and 42(a)(2) of the Federal Rules of Civil Procedure, Plaintiffs in the above-captioned actions, by their undersigned counsel, respectfully move for consolidation of the two related actions and appointment of Plaintiffs' proposed Interim Class Counsel, based on the exhibits attached hereto and the Memorandum of Law in Support of Motion for Consolidation of Related Actions and Appointment of Plaintiffs' Interim Class Counsel, being filed concurrently herewith.

Specifically, Plaintiffs seek an Order: (a) consolidating for all purposes the actions, *Marshall Lewis Tutor, et al. v. Lincoln National Corp. and Lincoln National Life Insurance Company d/b/a Lincoln Financial Group*, Case No. 17-cv-4150-GJP ("Tutor Action"), *Robert L. Trinchero, et al. v. Lincoln National Corp. and The Lincoln National Life Insurance Company*, Case No. 18-cv-0765-GJP ("Trinchero Action") (together, the "Related Actions"), and each case that may be subsequently filed in this Court that relates to the same subject matter as the Related Actions; and (b) appointing the law firms of Barrack, Rodos & Bacine; Bonnett, Fairbourn, Freidman & Balint, P.C.; Susman Godfrey LLP; The Moskowitz Law Firm PLLC; and Girard Gibbs LLP as Interim Class Counsel to serve on a Plaintiffs' Steering Committee (with co-chairs Barrack, Rodos & Bacine and Girard Gibbs LLP) on behalf of the Plaintiffs in the Related Actions and the putative Class (with the duties and responsibilities identified in the proposed Order being submitted with this Motion). The firm resumes of the five proposed Interim Class Counsel are attached hereto as Exhibits A-E.

As reflected in the proposed Order, the Motion further seeks that the Court grant 15 days from the date of the Order for proposed Interim Class Counsel to file with the Court and serve on Defendants a Consolidated Class Action Complaint, and that pending the filing of such a Consolidated Class Action Complaint, Defendants shall not be required to respond to the

complaints filed in the *Tutor* Action, the *Trinchero* Action, or any other related complaints that may be filed. Plaintiffs' counsel consulted with counsel for Defendants and are authorized to report that Defendants consent to the consolidation that Plaintiffs seek and take no position on the proposed appointment of Interim Class Counsel.

Dated: March 12, 2018

Respectfully submitted,

Barrack, Rodos & Bacine

/s/ Jeffrey W. Golan
Jeffrey W. Golan
Robert A. Hoffman
Lisa M. Port
3300 Two Commerce Square
2001 Market Street
Philadelphia, PA 19103
Telephone: (215) 963-0600
Facsimile: (215) 963-0838

and

Stephen R. Bassar
One America Plaza
600 W. Broadway, Suite 900
San Diego, CA 92101
Telephone: (619) 230-0800

**Bonnett, Fairbourn, Friedman &
Balint, P.C.**

Andrew Friedman
2325 E Camelback Rd #300
Phoenix, AZ 85016
Telephone: (602) 274-1100

Susman Godfrey L.L.P.

Steven G. Sklaver
1900 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067-6029

and

Seth Ard
Jillian Hewitt
Lucas Issacharoff
1301 Avenue of the Americas
32nd Floor
New York, NY 10019-6023

The Moskowitz Law Firm, PLLC
Adam Moskowitz
Howard Bushman
2 Alhambra Plaza, Suite 601
Coral Gables, FL 33134

Attorneys for Trinchero Plaintiffs

Girard Gibbs LLP
Daniel C. Girard
601 California Street, #1400
San Francisco, CA 94108

Attorneys for Tutor Plaintiff